

AMENDED IN SENATE MAY 19, 2022

AMENDED IN SENATE APRIL 7, 2022

AMENDED IN SENATE MARCH 16, 2022

**SENATE BILL**

**No. 1338**

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**Introduced by Senators Umberg and Eggman**

*(Coauthors: Senators Allen, Archuleta, Caballero, Cortese, Dodd,  
Hertzberg, Newman, Portantino, Stern, and Wiener)*

*(Coauthors: Assembly Members Gipson, Irwin, O'Donnell,  
Petrie-Norris, and Villapudua)*

February 18, 2022

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An act to add Section 1374.723 to the Health and Safety Code, to add Section 10144.54 to the Insurance Code, to amend Section 1370.01 of the Penal Code, and to amend Sections 5801 and 5813.5 of, and to add Part 8 (commencing with Section 5970) to Division 5 of, the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Umberg. Community Assistance, Recovery, and Empowerment (CARE) Court Program.

(1) Existing law, the Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, requires each county to offer specified mental health programs, unless a county or group of counties opts out by a resolution passed by the governing body, as specified. Existing law, the Lanterman-Petris-Short Act, provides for short-term and longer-term involuntary treatment and conservatorships for people who are determined to be gravely disabled.

This bill would enact the Community Assistance, Recovery, and Empowerment (CARE) Act, which would authorize specified people

*persons to petition a civil court to create a voluntary CARE agreement or a court-ordered CARE plan and implement services, to be provided by county behavioral health agencies, to provide behavioral health care, including stabilization medication, and housing support housing, and other enumerated services to adults who are suffering from schizophrenia spectrum and psychotic disorders and who lack medical decisionmaking capacity; meet other specified criteria.* The bill would specify the process by which the petition is filed and reviewed, including requiring the petition to be signed under penalty of perjury, and to contain specified information, including the acts that support the petitioner's belief *assertion* that the respondent meets the CARE ~~criteria~~ *criteria*. The bill would also specify the schedule of review hearings required if the respondent is ordered to comply with ~~a~~ *an up to one-year CARE plan by the court.* *The bill would make the hearings in a CARE proceeding confidential and not open to the public, thereby limiting public access to a meeting of a public body.* The bill would authorize the CARE plan to be extended *once*, for up to one-year year; and prescribes the requirement for the graduation plan that is required upon leaving the CARE program. By expanding the crime of perjury and imposing additional duties on the county behavioral health agencies, this bill would impose a state-mandated local program.

This bill would ~~include in the CARE program the respondent's right to have a supporter and counsel at all proceedings.~~ *require the court to appoint counsel and a CARE supporter for the respondent, unless the respondent has their own or chooses not to have a CARE supporter.* The bill would require the California ~~Health and Human Services Agency, Department of Aging,~~ subject to appropriation, to administer the CARE Supporter program, which would make available a trained CARE supporter to each ~~respondent.~~ *respondent, who can accept, decline, or choose their own voluntary, unpaid CARE supporter. The bill would require optional training to be made available for volunteer CARE supporters.*

*This bill, subject to appropriation, would require the State Department of Health Care Services to provide technical assistance to county behavioral health agencies to implement the act and would require the Judicial Council and the State Department of Health Care Services to provide training to judges and counsel regarding the CARE Act, as specified.*

This bill would authorize the court, at any time during the proceedings if it finds the county *or other local government entity* not complying

with court orders, to fine the county *or other local government entity* up to \$1,000 per day and, if the court finds persistent noncompliance, to appoint a receiver to secure court-ordered care for the respondent at the county's cost.

*This bill would require the State Department of Health Care Services, in consultation with various other entities, to develop an annual CARE Act report and an independent evaluation of the effectiveness of the CARE Act, and would require county behavioral health agencies and other local governmental entities to provide the department with specified information for that report. By increasing the duties of a local agency, this bill would impose a state-mandated local program.*

*Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund (MHSF), a continuously appropriated fund, to fund various county mental health programs, including children's mental health care, adult and older adult mental health care, prevention and early intervention programs, and innovative programs.*

*This bill would clarify that MHSA funds may be used to provide services to individuals under a CARE agreement or a CARE plan.*

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. *Existing law also provides for the regulation of health insurers by the Department of Insurance.* Existing law requires health care service plans *and insurers* to provide coverage for medically necessary treatment of mental health and substance use disorders. Violation of the Knox-Keene Act *by a health care service plan* is a crime.

This bill would require health care service plans *and insurers* to cover the cost of developing an evaluation for CARE services and the provision of all health care services for an enrollee *or insured* when required or recommended for the ~~enrollee person~~ *enrollee person* pursuant to a CARE plan, as specified, without cost sharing. ~~By creating a new~~ *Because a violation of this requirement by a health care service plan would be a crime, this bill would impose a state-mandated local program.*

(3) Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment, with the goal

of returning the defendant to competency. Existing law suspends a criminal action pending restoration to competency.

This bill, for ~~misdemeanor defendants who have a misdemeanor defendant who has~~ been determined to be incompetent to stand trial, would authorize the court to refer the defendant to the CARE program.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

*This bill would make legislative findings to that effect.*

(4)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Thousands of Californians are suffering from untreated  
4 schizophrenia spectrum and psychotic disorders, leading to risks  
5 to their health and safety and increased homelessness, incarceration,  
6 hospitalization, conservatorship, and premature death. These  
7 individuals, families, and communities deserve a path to care and  
8 wellness.

9 (b) With advancements in behavioral health treatments, many  
10 people with untreated schizophrenia spectrum and psychotic  
11 disorders can stabilize, begin healing, and thrive in  
12 community-based settings, with the support of behavioral health  
13 services, stabilizing medications, and housing. But too often this

1 comprehensive care is only provided after arrest, conservatorship,  
2 or institutionalization.

3 (c) A new approach is needed to act earlier and to provide  
4 support and accountability, both to individuals with these untreated  
5 severe mental illnesses and to local governments with the  
6 responsibility to provide behavioral health services. California's  
7 civil courts will provide a new process for earlier action, support,  
8 and accountability, through a new Community Assistance,  
9 Recovery, and Empowerment (CARE) Court Program.

10 (d) Self-determination and civil liberties are important California  
11 values that can be advanced and protected for individuals with  
12 these untreated severe mental illnesses ~~and without current capacity~~  
13 ~~for medical decisionmaking~~, with the establishment of a new CARE  
14 Supporter role, in addition to legal counsel, for CARE proceedings.

15 (e) California continues to act with urgency to expand behavioral  
16 health services and to increase housing choices and end  
17 homelessness for all Californians. CARE provides a vital solution  
18 for some of the most ill and most vulnerable Californians.

19 SEC. 2. Section 1374.723 is added to the Health and Safety  
20 Code, to read:

21 1374.723. (a) A health care service plan contract issued,  
22 amended, renewed, or delivered on or after July 1, 2023, that covers  
23 hospital, medical, or surgical expenses shall cover the cost of  
24 developing an evaluation pursuant to Section 5977 of the Welfare  
25 and Institutions Code and the provision of all health care services  
26 for an enrollee when required or recommended for the enrollee  
27 pursuant to ~~a care~~ CARE agreement or a CARE plan approved by  
28 a court in accordance with the court's authority under Sections  
29 5977 and 5982 of the Welfare and Institutions Code.

30 (b) (1) A health care service plan shall not require prior  
31 authorization for services provided pursuant to ~~a care~~ CARE  
32 agreement or CARE plan approved by a court ~~under the CARE~~  
33 ~~program~~ pursuant to Part 8 (commencing with Section 5970) of  
34 Division 5 of the Welfare and Institutions Code.

35 (2) A health care service plan may conduct a postclaim review  
36 to determine appropriate payment of a claim. Payment for services  
37 subject to this section may be denied only if the health care service  
38 plan reasonably determines the enrollee was not enrolled with the  
39 plan at the time the services were rendered, the services were never  
40 performed, or the services were not provided by a health care

1 provider appropriately licensed or authorized to provide the  
2 services.

3 (3) Notwithstanding paragraph (1), a health care service plan  
4 may require prior authorization for services as permitted by the  
5 department pursuant to subdivision (e).

6 (c) (1) A health care service plan shall provide for  
7 reimbursement of services provided to an enrollee pursuant to this  
8 section at the greater of either of the following amounts:

9 (A) The health plan's contracted rate with the provider.

10 (B) The fee-for-service or case reimbursement rate paid in the  
11 Medi-Cal program for the same or similar services, including  
12 prescription drugs, as identified by the State Department of Health  
13 Care Services.

14 (2) A health care service plan shall provide reimbursement for  
15 services provided pursuant to this section in compliance with the  
16 requirements for timely payment of claims, as required by this  
17 chapter.

18 (d) Services provided to an enrollee pursuant to a CARE  
19 *agreement or CARE* plan shall not be subject to copayment,  
20 coinsurance, deductible, or any other form of cost sharing. An  
21 individual or entity shall not bill the enrollee or subscriber, nor  
22 seek reimbursement from the enrollee or subscriber, for services  
23 provided pursuant to a CARE *agreement or CARE* plan.

24 (e) No later than July 1, 2023, the ~~director of the Department~~  
25 ~~of Managed Health Care~~ *department* may issue guidance to health  
26 care service plans regarding compliance with this section. This  
27 guidance shall not be subject to the Administrative Procedure Act  
28 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
29 Division 3 of Title 2 of the Government Code). Guidance issued  
30 pursuant to this subdivision shall be effective only until the ~~director~~  
31 *department* adopts regulations pursuant to the Administrative  
32 Procedure Act.

33 (f) This section does not apply to Medi-Cal managed care  
34 contracts entered pursuant to Chapter 7 (commencing with Section  
35 14000), Chapter 8 (commencing with Section 14200), or Chapter  
36 8.75 (commencing with Section 14591) of Part 3 of Division 9 of  
37 the Welfare and Institutions Code, between the State Department  
38 of Health Care Services and a health care service plan for enrolled  
39 Medi-Cal beneficiaries.

40 (g) This section shall become operative on July 1, 2023.

1 SEC. 3. Section 10144.54 is added to the Insurance Code, to  
2 read:

3 10144.54. (a) An insurance policy issued, amended, renewed,  
4 or delivered on or after July 1, 2023, shall cover the cost of  
5 developing an evaluation pursuant to Section 5977 of the Welfare  
6 and Institutions Code and the provision of all health care services  
7 for an insured when required or recommended for the insured  
8 pursuant to a CARE agreement or CARE plan approved by a court  
9 in accordance with the court's authority under Sections 5977 and  
10 5982 of the Welfare and Institutions Code.

11 (b) (1) An insurer shall not require prior authorization for  
12 services provided pursuant to a CARE agreement or CARE plan  
13 approved by a court pursuant to Part 8 (commencing with Section  
14 5970) of Division 5 of the Welfare and Institutions Code.

15 (2) An insurer may conduct a postclaim review to determine  
16 appropriate payment of a claim. Payment for services subject to  
17 this section may be denied only if the insurer reasonably determines  
18 the insured was not insured at the time the services were rendered,  
19 the services were never performed, or the services were not  
20 provided by a health care provider appropriately licensed or  
21 authorized to provide the services.

22 (3) Notwithstanding paragraph (1), an insurer may require  
23 prior authorization for services as permitted by the department  
24 pursuant to subdivision (e).

25 (c) (1) An insurer shall provide for reimbursement of services  
26 provided to an insured pursuant to this section at the greater of  
27 either of the following amounts:

28 (A) The insurer's contracted rate with the provider.

29 (B) The fee-for-service or case reimbursement rate paid in the  
30 Medi-Cal program for the same or similar services, including  
31 prescription drugs, as identified by the State Department of Health  
32 Care Services.

33 (2) An insurer shall provide reimbursement for services provided  
34 pursuant to this section in compliance with the requirements for  
35 timely payment of claims, as required by this chapter.

36 (d) Services provided to an insured pursuant to a CARE  
37 agreement or CARE plan shall not be subject to copayment,  
38 coinsurance, deductible, or any other form of cost sharing. An  
39 individual or entity shall not bill the insured, nor seek

1 reimbursement from the insured, for services provided pursuant  
2 to a CARE agreement or CARE plan.

3 (e) No later than July 1, 2023, the department may issue  
4 guidance to insurers regarding compliance with this section. This  
5 guidance shall not be subject to the Administrative Procedure Act  
6 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
7 Division 3 of Title 2 of the Government Code). Guidance issued  
8 pursuant to this subdivision shall be effective only until the  
9 department adopts regulations pursuant to the Administrative  
10 Procedure Act.

11 ~~SEC. 3.~~

12 SEC. 4. Section 1370.01 of the Penal Code is amended to read:

13 1370.01. (a) If the defendant is found mentally competent, the  
14 criminal process shall resume, and the trial on the offense charged  
15 or hearing on the alleged violation shall proceed.

16 (b) If the defendant is found mentally incompetent, the trial,  
17 judgment, or hearing on the alleged violation shall be suspended  
18 and the court may do either of the following:

19 (1) (A) Conduct a hearing, pursuant to Chapter 2.8A  
20 (commencing with Section 1001.35) of Title 6, and, if the court  
21 deems the defendant eligible, grant diversion pursuant to Section  
22 1001.36 for a period not to exceed one year from the date the  
23 individual is accepted into diversion or the maximum term of  
24 imprisonment provided by law for the most serious offense charged  
25 in the misdemeanor complaint, whichever is shorter.

26 (B) If the court opts to conduct a hearing pursuant to this  
27 paragraph, the hearing shall be held no later than 30 days after the  
28 finding of incompetence. If the hearing is delayed beyond 30 days,  
29 the court shall order the defendant to be released on their own  
30 recognizance pending the hearing.

31 (C) If the defendant performs satisfactorily on diversion pursuant  
32 to this section, at the end of the period of diversion, the court shall  
33 dismiss the criminal charges that were the subject of the criminal  
34 proceedings at the time of the initial diversion.

35 (D) If the court finds the defendant ineligible for diversion based  
36 on the circumstances set forth in subdivision (b) or (d) of Section  
37 1001.36, the court may, after notice to the defendant, defense  
38 counsel, and the prosecution, hold a hearing to determine whether  
39 to do any of the following:

- 1 (i) Order modification of the ~~treatment~~ CARE plan in accordance  
2 with a recommendation from the treatment provider.
- 3 (ii) Refer the defendant to assisted outpatient treatment pursuant  
4 to Section 5346 of the Welfare and Institutions Code. A referral  
5 to assisted outpatient treatment may only occur in a county where  
6 services are available pursuant to Section 5348 of the Welfare and  
7 Institutions Code, and the agency agrees to accept responsibility  
8 for treatment of the defendant. A hearing to determine eligibility  
9 for assisted outpatient treatment shall be held within 45 days after  
10 the date of the referral. If the hearing is delayed beyond 45 days,  
11 the court shall order the defendant, if confined in county jail, to  
12 be released on their own recognizance pending that hearing. If the  
13 defendant is accepted into assisted outpatient treatment, the charges  
14 shall be dismissed pursuant to Section 1385.
- 15 (iii) Refer the defendant to the county conservatorship  
16 investigator in the county of commitment for possible  
17 conservatorship proceedings for the defendant pursuant to Chapter  
18 3 (commencing with Section 5350) of Part 1 of Division 5 of the  
19 Welfare and Institutions Code. A defendant shall only be referred  
20 to the conservatorship investigator if, based on the opinion of a  
21 qualified mental health expert, the defendant appears to be gravely  
22 disabled, as defined in subparagraph (A) of paragraph (1) of  
23 subdivision (h) of Section 5008 of the Welfare and Institution  
24 Code. Any hearings required in the conservatorship proceedings  
25 shall be held in the superior court in the county of commitment.  
26 The court shall transmit a copy of the order directing initiation of  
27 conservatorship proceedings to the county mental health director  
28 or the director's designee and shall notify the county mental health  
29 director or their designee of the outcome of the proceedings. Before  
30 establishing a conservatorship, the public guardian shall investigate  
31 all available alternatives to conservatorship pursuant to Section  
32 5354 of the Welfare and Institutions Code. If a petition is not filed  
33 within 60 days of the referral, the court shall order the defendant,  
34 if confined in county jail, to be released on their own recognizance  
35 pending conservatorship proceedings. If the outcome of the  
36 conservatorship proceedings results in the establishment of  
37 conservatorship, the charges shall be dismissed pursuant to Section  
38 1385.
- 39 (iv) Refer the defendant to the CARE program pursuant to  
40 Section 5978 of the Welfare and Institutions Code. A hearing to

1 determine eligibility for CARE shall be held within 14 days after  
2 the date of the referral. If the hearing is delayed beyond 14 days,  
3 the court shall order the defendant, if confined in county jail, to  
4 be released on their own recognizance pending that hearing. If the  
5 defendant ~~successfully completes~~ *is accepted into* CARE, the  
6 charges shall be dismissed pursuant to Section 1385.

7 (2) Dismiss the charges pursuant to Section 1385. If the criminal  
8 action is dismissed, the court shall transmit a copy of the order of  
9 dismissal to the county mental health director or the director's  
10 designee.

11 (c) If the defendant is found mentally incompetent and is on a  
12 grant of probation for a misdemeanor offense, the court shall  
13 dismiss the pending revocation matter and may return the defendant  
14 to supervision. If the revocation matter is dismissed pursuant to  
15 this subdivision, the court may modify the terms and conditions  
16 of supervision to include appropriate mental health treatment.

17 (d) It is the intent of the Legislature that a defendant subject to  
18 the terms of this section receive mental health treatment in a  
19 treatment facility and not a jail. A term of four days will be deemed  
20 to have been served for every two days spent in actual custody  
21 against the maximum term of diversion. A defendant not in actual  
22 custody shall otherwise receive day for day credit against the term  
23 of diversion from the date the defendant is accepted into diversion.  
24 "Actual custody" has the same meaning as in Section 4019.

25 (e) This section shall apply only as provided in subdivision (b)  
26 of Section 1367.

27 *SEC. 5. Section 5801 of the Welfare and Institutions Code is*  
28 *amended to read:*

29 5801. (a) A system of care for adults and older adults with  
30 severe mental illness results in the highest benefit to the client,  
31 family, and community while ensuring that the public sector meets  
32 its legal responsibility and fiscal liability at the lowest possible  
33 cost.

34 (b) The underlying philosophy for these systems of care includes  
35 the following:

36 (1) Mental health care is a basic human service.

37 (2) Seriously mentally disordered adults and older adults are  
38 citizens of a community with all the rights, privileges,  
39 opportunities, and responsibilities accorded other citizens.

1 (3) Seriously mentally disordered adults and older adults usually  
2 have multiple disorders and disabling conditions and should have  
3 the highest priority among adults for mental health services.

4 (4) Seriously mentally disordered adults and older adults should  
5 have an interagency network of services with multiple points of  
6 access and be assigned a single person or team to be responsible  
7 for all treatment, case management, and community support  
8 services.

9 (5) The client should be fully informed and volunteer for all  
10 treatment provided, unless danger to self or others or grave  
11 disability requires temporary involuntary treatment, or the client  
12 is under a court order for assisted outpatient treatment pursuant to  
13 Section 5346 and, prior to the filing of the petition for assisted  
14 outpatient treatment pursuant to Section 5346, the client has been  
15 offered an opportunity to participate in ~~a treatment plan~~ *treatment*  
16 *on a voluntary basis and has failed to engage in that treatment.*  
17 *treatment, or the client is under a court order for CARE pursuant*  
18 *to Part 8 (commencing with Section 5970) and, prior to the*  
19 *court-ordered CARE plan, the client has been offered an*  
20 *opportunity to enter into a CARE agreement on a voluntary basis*  
21 *and has declined to do so.*

22 (6) Clients and families should directly participate in making  
23 decisions about services and resource allocations that affect their  
24 lives.

25 (7) People in local communities are the most knowledgeable  
26 regarding their particular environments, issues, service gaps and  
27 strengths, and opportunities.

28 (8) Mental health services should be responsive to the unique  
29 characteristics of people with mental disorders including age,  
30 gender, minority and ethnic status, and the effect of multiple  
31 disorders.

32 (9) For the majority of seriously mentally disordered adults and  
33 older adults, treatment is best provided in the client's natural setting  
34 in the community. Treatment, case management, and community  
35 support services should be designed to prevent inappropriate  
36 removal from the natural environment to more restrictive and costly  
37 placements.

38 (10) Mental health systems of care shall have measurable goals  
39 and be fully accountable by providing measures of client outcomes  
40 and cost of services.

1 (11) State and county government agencies each have  
2 responsibilities and fiscal liabilities for seriously mentally  
3 disordered adults and seniors.

4 *SEC. 6. Section 5813.5 of the Welfare and Institutions Code*  
5 *is amended to read:*

6 5813.5. Subject to the availability of funds from the Mental  
7 Health Services Fund, the state shall distribute funds for the  
8 provision of services under Sections 5801, 5802, and 5806 to  
9 county mental health programs. Services shall be available to adults  
10 and seniors with severe illnesses who meet the eligibility criteria  
11 in subdivisions (b) and (c) of Section 5600.3. For purposes of this  
12 act, “seniors” means older adult persons identified in Part 3  
13 (commencing with Section 5800) of this division.

14 (a) Funding shall be provided at sufficient levels to ensure that  
15 counties can provide each adult and senior served pursuant to this  
16 part with the medically necessary mental health services,  
17 medications, and supportive services set forth in the applicable  
18 treatment plan.

19 (b) The funding shall only cover the portions of those costs of  
20 services that cannot be paid for with other funds, including other  
21 mental health funds, public and private insurance, and other local,  
22 state, and federal funds.

23 (c) Each county mental health program’s plan shall provide for  
24 services in accordance with the system of care for adults and  
25 seniors who meet the eligibility criteria in subdivisions (b) and (c)  
26 of Section 5600.3.

27 (d) Planning for services shall be consistent with the philosophy,  
28 principles, and practices of the Recovery Vision for mental health  
29 consumers:

30 (1) To promote concepts key to the recovery for individuals  
31 who have mental illness: hope, personal empowerment, respect,  
32 social connections, self-responsibility, and self-determination.

33 (2) To promote consumer-operated services as a way to support  
34 recovery.

35 (3) To reflect the cultural, ethnic, and racial diversity of mental  
36 health consumers.

37 (4) To plan for each consumer’s individual needs.

38 (e) The plan for each county mental health program shall  
39 indicate, subject to the availability of funds as determined by Part  
40 4.5 (commencing with Section 5890) of this division, and other

1 funds available for mental health services, adults and seniors with  
2 a severe mental illness being served by this program are either  
3 receiving services from this program or have a mental illness that  
4 is not sufficiently severe to require the level of services required  
5 of this program.

6 (f) Each county plan and annual update pursuant to Section  
7 5847 shall consider ways to provide services similar to those  
8 established pursuant to the Mentally Ill Offender Crime Reduction  
9 Grant Program. Funds shall not be used to pay for persons  
10 incarcerated in state prison. Funds may be used to provide services  
11 to persons who are participating in a presentencing or  
12 postsentencing diversion program or who are on parole, probation,  
13 postrelease community supervision, or mandatory supervision.  
14 When included in county plans pursuant to Section 5847, funds  
15 may be used for the provision of mental health services under  
16 Sections 5347 and 5348 in counties that elect to participate in the  
17 Assisted Outpatient Treatment Demonstration Project Act of 2002  
18 (Article 9 (commencing with Section 5345) of Chapter 2 of ~~Part~~  
19 ~~4~~ *Part 1*), and for the provision of services to clients pursuant to  
20 *Part 8 (commencing with Section 5970).*

21 (g) The department shall contract for services with county  
22 mental health programs pursuant to Section 5897. After November  
23 2, 2004, the term “grants,” as used in Sections 5814 and 5814.5,  
24 shall refer to those contracts.

25 ~~SEC. 4.~~

26 *SEC. 7.* Part 8 (commencing with Section 5970) is added to  
27 Division 5 of the Welfare and Institutions Code, to read:

28

29 PART 8. THE COMMUNITY ASSISTANCE, RECOVERY,  
30 AND EMPOWERMENT ACT

31

32 CHAPTER 1. GENERAL PROVISIONS

33

34 5970. This part shall be known, and may be cited, as  
35 Community Assistance, Recovery, and Empowerment (CARE)  
36 Act.

37 5971. Unless the context otherwise requires, the following  
38 definitions shall govern the construction of this part.

39 (a) ~~“Court-ordered evaluation” means an evaluation ordered by~~  
40 ~~a superior court pursuant to Section 5977.~~

1 (a) “CARE agreement” means a settlement agreement entered  
2 into through the initial engagement period in the CARE court  
3 process that does not include court orders. A CARE agreement  
4 includes the same elements as a CARE plan to support the  
5 respondent in accessing services and supports.

6 (b) “CARE plan” means an individualized, ~~clinically~~ appropriate  
7 range of ~~behavioral health-related~~ services and supports provided  
8 by a county behavioral health agency, including, but not limited  
9 to, ~~clinical care~~, consisting of behavioral health care, stabilization  
10 medications, and a ~~housing plan~~, housing, and enumerated services,  
11 pursuant to Section 5982.

12 (c) “CARE supporter” means an adult, designated pursuant to  
13 Chapter 4 (commencing with Section 5980), who assists the person  
14 who is the subject of the petition, which may include supporting  
15 the person to understand, make, communicate, implement, or act  
16 on their own life decisions during the CARE court process.

17 (d) “County behavioral health agency” means the local director  
18 of mental health services described in Section 5607, the local  
19 behavioral health director, or both as applicable, or their designee.

20 (e) “Court-ordered evaluation” means an evaluation ordered  
21 by a superior court pursuant to Section 5977.

22 (e)

23 (f) “Graduation plan” means a CARE plan that is developed by  
24 the person who is the subject of the petition, with assistance from  
25 a CARE supporter, as needed, and the person’s treatment team.  
26 The graduation plan shall include a strategy to support a successful  
27 transition out of court jurisdiction and may include a psychiatric  
28 advance directive. ~~The graduation plan may also include, but is~~  
29 ~~not limited to, on-going behavioral health services, including~~  
30 ~~medication management, peer support services, housing and related~~  
31 ~~support services, vocational or educational services, and~~  
32 ~~psychoeducation.~~

33 (g) “Indian health care provider” means a health care program  
34 operated by the Indian Health Service, an Indian tribe, a tribal  
35 organization, or urban Indian organization (I/T/U) as those terms  
36 are defined in Section 4 of the Indian Health Care Improvement  
37 Act (25 U.S.C. Sec. 1603).

38 (h) “Licensed behavioral health professional” means either of  
39 the following:

1 (1) A licensed mental health professional, as defined in  
2 subdivision (j) of Section 4096.

3 (2) A person who has been granted a waiver of licensure  
4 requirements by the State Department of Health Care Services  
5 pursuant to Section 5751.2.

6 (i) “Parties” means the respondent, the county behavioral health  
7 agency in the county where proceedings under this part are  
8 pending, and other parties added by the court pursuant to Section  
9 5977.

10 (d)

11 (j) “Psychiatric advance directive” means a legal document  
12 document, executed on a voluntary basis by a person who has the  
13 capacity to make medical decisions, that allows a person with  
14 mental illness to protect their autonomy and ability to self-direct  
15 care by documenting their preferences for treatment in advance of  
16 a mental health crisis.

17 (e)

18 (k) “Respondent” means the person who is subject to the petition  
19 for CARE court proceedings.

20 (f) “Supporter” means an adult, trained pursuant to Chapter 4  
21 (commencing with Section 5980), who assists the person who is  
22 the subject of the petition, which may include supporting the person  
23 to understand, make, communicate, implement, or act on their own  
24 life decisions.

25 (l) “Schizophrenia spectrum and other psychotic disorders” is  
26 the category of mental health conditions in which psychosis is the  
27 primary symptom. Psychosis involves hallucinations or delusions.

28

29

CHAPTER 2. PROCESS

30

31 ~~5972. A court may order a respondent to participate in CARE~~  
32 ~~proceedings if the court finds, by clear and convincing evidence,~~  
33 ~~that the facts stated in the petition are true and establish that the~~  
34 ~~requisite criteria set forth in this section are met, including all of~~  
35 ~~the following:~~

36 ~~5972. An individual shall qualify for CARE proceedings only~~  
37 ~~if all of the following criteria are met:~~

38 (a) The person is 18 years of age or older.

39 (b) The person is currently suffering from a severe mental  
40 illness, as defined in paragraph (2) of subdivision (b) of Section

1 5600.3 and has a diagnosis of schizophrenia spectrum or other  
 2 psychotic disorder, as defined in the most current version of the  
 3 Diagnostic and Statistical Manual of Mental Disorders.

4 (c) The person is not clinically stabilized in on-going treatment  
 5 with the county behavioral health ~~agency~~; *agency or other*  
 6 *treatment provider*.

7 ~~(d) The person currently lacks medical decisionmaking capacity.~~

8 (d) *At least one of the following is true:*

9 (1) *The person's impaired insight or judgment presents a risk*  
 10 *to their health and safety.*

11 (2) *The person is in need of services and supports in order to*  
 12 *prevent a relapse or deterioration that would be likely to result in*  
 13 *grave disability or serious harm to the person or others, as defined*  
 14 *in Section 5150.*

15 (e) *Participation in CARE court would be the least restrictive*  
 16 *alternative necessary to ensure the person's recovery and stability.*

17 (f) *It is likely that the person will benefit from CARE court.*

18 5973. Proceedings under this part may be commenced in any  
 19 of the following:

20 (a) The county in which the respondent resides.

21 (b) The county where the respondent is found.

22 (c) The county where the respondent is facing criminal or civil  
 23 proceedings.

24 5974. The following persons may file a petition to initiate  
 25 CARE proceedings:

26 (a) A person 18 years of age or older with whom the respondent  
 27 resides.

28 (b) A spouse, parent, *adult sibling*, ~~or adult child of child~~, *or*  
 29 *grandparent or other adult who stands in loco parentis* to the  
 30 respondent.

31 (c) The director of a hospital, or their designee, in which the  
 32 respondent is hospitalized, including hospitalization pursuant to  
 33 Section 5150 or 5250.

34 (d) The director of a public or charitable organization, agency,  
 35 or home, or their designee, currently or previously providing  
 36 behavioral health services to the respondent or in whose institution  
 37 the respondent resides.

38 (e) A ~~qualified~~ *licensed* behavioral health professional, or their  
 39 designee, who is, or has been, either supervising the treatment of,  
 40 or treating the respondent for a mental illness.

1 (f) A first responder, including a peace officer, firefighter,  
2 paramedic, emergency medical technician, mobile crisis response  
3 worker, or homeless outreach ~~worker~~ *worker, who has had*  
4 *repeated interactions with the respondent in the form of multiple*  
5 *arrests, multiple detentions and transportation pursuant to Section*  
6 *5150, multiple attempts to engage the respondent in voluntary*  
7 *treatment, or other repeated efforts to aid the respondent in*  
8 *obtaining professional assistance.*

9 (g) The public guardian or public conservator, or their designee,  
10 of the county in which the respondent is present or reasonably  
11 believed to be present.

12 (h) The director of a county behavioral health agency, or their  
13 designee, of the county in which the respondent is present or  
14 reasonably believed to be present.

15 (i) *The director of a California Indian health services program,*  
16 *California tribal behavioral health department, or their designee.*

17 (j) *The judge of a tribal court that is located in California, or*  
18 *their designee.*

19 (k) *A prosecuting attorney, pursuant to subdivision (b) of Section*  
20 *5978.*

21 (l) *The respondent.*

22 5975. The petition shall be signed under the penalty of perjury  
23 and contain all of the following:

24 (a) The name of the court to which it is addressed.

25 (b) The title of the proceeding.

26 (c) The name, age, and address, if any, of the respondent.

27 (d) The code section and the subdivision under which the  
28 proceedings are instituted.

29 (e) The petitioner's relationship with the respondent.

30 (f) Facts that support the petitioner's ~~belief~~ *assertion* that the  
31 respondent meets the CARE criterion, including identification of  
32 the county behavioral health agency ~~with responsibility for~~  
33 ~~providing care to the respondent,~~ *in the county where the*  
34 *respondent resides, if known.*

35 (g) Either of the following:

36 (1) ~~An affirmation or affidavit of a qualified licensed behavioral~~  
37 ~~health professional, stating that the qualified licensed behavioral~~  
38 ~~health professional or their designee has examined the respondent~~  
39 ~~within three months~~ *60 days* of the submission of the petition, or  
40 has made appropriate attempts, but has not been successful, in

1 eliciting the cooperation of the respondent to submit to an  
 2 examination, and that the ~~qualified~~ *licensed* behavioral health  
 3 professional had determined that, based on an examination or a  
 4 review of records and collateral interviews, the respondent meets,  
 5 or is likely to meet, the diagnostic criteria for CARE proceedings.

6 (2) Evidence that the respondent was detained for intensive  
 7 treatment pursuant to Article 4 (commencing with Section 5250)  
 8 of Chapter 2 of Part 1 within the previous 90 days.

9 5976. The respondent ~~shall have all of the following rights:~~  
 10 *shall:*

- 11 (a) ~~To receive~~ *Receive* notice of the hearings.
- 12 (b) ~~To receive~~ *Receive* a copy of the court-ordered evaluation.
- 13 (c) ~~To be~~ *Be* represented by counsel at all stages of a proceeding  
 14 commenced under this chapter.
- 15 (d) ~~To a~~ *Have a* CARE supporter, as described in Section 5982.
- 16 (e) ~~To be~~ *Be* present at the hearing unless the respondent waives  
 17 the right to be present or the court makes a finding described in  
 18 Section 5977 or appears remotely.
- 19 (f) ~~To~~ *Have the right to* present evidence.
- 20 (g) ~~To~~ *Have the right to* call witnesses.
- 21 (h) ~~To~~ *Have the right to* cross-examine witnesses.
- 22 (i) ~~To~~ *Have the right to* appeal decisions, and to be informed  
 23 of the right to appeal.

24 5976.5. (a) *Notwithstanding any other law, and except as*  
 25 *otherwise provided in this section, a hearing held under this part*  
 26 *is presumptively closed to the public.*

27 (b) *The individual who is the subject of the proceeding may*  
 28 *demand that the hearing be public and be held in a place suitable*  
 29 *for attendance by the public.*

30 (c) *The individual who is the subject of the proceeding may*  
 31 *request the presence of any family member or friend without*  
 32 *waiving the right to keep the hearing closed to the rest of the*  
 33 *public.*

34 (d) *A request by any other party to the proceeding to make the*  
 35 *hearing public may be granted if the judge, hearing officer, or*  
 36 *other person conducting the hearing finds that the public interest*  
 37 *in an open hearing clearly outweighs the individual's interest in*  
 38 *privacy.*

1 (e) *Before commencing a hearing, the judge, hearing officer,*  
2 *or other person conducting the hearing shall inform the respondent*  
3 *of their rights under this section.*

4 5977. (a) (1) Upon receipt by the court of a petition, the court  
5 shall set an initial hearing not later than 14 days from the date the  
6 petition is filed with the court.

7 (2) The court shall appoint ~~counsel~~ *counsel, unless the*  
8 *respondent has their own counsel, and a ~~supporter~~ CARE supporter,*  
9 *unless the respondent chooses their own CARE supporter or*  
10 *chooses not to have a CARE supporter, within five calendar days*  
11 *of filing.*

12 (3) The petitioner shall be responsible for providing notice of  
13 the hearing to the respondent, the respondent’s counsel and CARE  
14 supporter, and the county behavioral health agency in the county  
15 where the respondent resides.

16 (b) (1) At the initial hearing, which shall occur 14 days after  
17 the petition is filed with the court, ~~the court~~ *based on the*  
18 *petition presented and the affidavit or evidence presented pursuant*  
19 *to paragraphs (1) and (2) of subdivision (g) of Section 5975, shall*  
20 *determine if the respondent meets the CARE criteria.*

21 (2) All of the following shall be required for the hearing:

22 (A) The petitioner *or their designee* shall be present. If the  
23 petitioner *or their designee* is not present, the matter shall be  
24 dismissed.

25 (B) The respondent may waive their appearance and appear  
26 through their counsel. If the respondent does not waive their  
27 appearance and does not appear at the hearing, and appropriate  
28 attempts to elicit the attendance of the respondent have failed, the  
29 court may conduct the hearing in the respondent’s absence. If the  
30 hearing is conducted without the respondent present, the court  
31 shall set forth the factual basis for doing so.

32 (C) A representative from the county behavioral health agency  
33 shall be present.

34 (D) The CARE supporter shall be allowed to be ~~present~~ *present,*  
35 *subject to the consent of the respondent.*

36 (E) *If the respondent is enrolled in a federally recognized Indian*  
37 *tribe or is otherwise receiving services from an Indian health care*  
38 *provider, tribal court, or tribal organization, a representative from*  
39 *the program, tribe, or tribal court shall be allowed to be present,*  
40 *subject to the consent of the respondent.*

1 (3) (A) The court shall determine if the petitioner has presented  
2 prima facie evidence that respondent meets the CARE criteria.

3 (B) If the court finds that the petitioner has not presented  
4 sufficient prima facie evidence, the court shall dismiss the case  
5 without prejudice, unless the court makes a finding on the record  
6 that the petitioner's filing was not in good faith. *Any new petition*  
7 *shall be based on changed circumstances that warrant a new*  
8 *petition.*

9 (C) If the court finds that the petitioner has submitted prima  
10 facie evidence that the respondent meets the CARE criteria, the  
11 court shall order the county behavioral health agency to work with  
12 the respondent and the respondent's counsel and CARE supporter  
13 ~~to determine if the respondent shall engage in a treatment plan.~~  
14 *treatment.* A case management ~~conference~~ *hearing* shall be set for  
15 no later than 14 days after the court makes its finding.

16 (D) *If the respondent is enrolled in a federally recognized Indian*  
17 *tribe, the court shall offer to provide notice of the case management*  
18 *hearing to the tribe, subject to the consent of the respondent.*

19 (c) (1) At the case management ~~conference~~ hearing, the court  
20 shall determine if a ~~settlement~~ CARE agreement may be entered  
21 into by the parties.

22 (2) The case management ~~conference~~ *hearing* may be continued  
23 for up to 14 days upon stipulation of the respondent and the county  
24 behavioral health agency.

25 (3) The court's findings that a ~~settlement~~ CARE agreement may  
26 be entered into by the parties shall require a recitation of all terms  
27 and conditions on the record.

28 (4) If the court finds that parties have agreed to a ~~settlement~~  
29 CARE agreement, and the court agrees with the terms of the  
30 agreement, the court shall stay the matter and set a progress hearing  
31 for 60 days.

32 (5) (A) If the court finds that the parties are not likely to reach  
33 a ~~settlement~~ CARE agreement, the court shall order a clinical  
34 evaluation of the respondent unless ~~the parties stipulate otherwise.~~  
35 *there is an existing clinical evaluation of the respondent that was*  
36 *completed within the last 30 days and the parties stipulate to the*  
37 *use of that evaluation.*

38 (B) The court shall order the county behavioral health ~~agency~~  
39 *agency, through a licensed behavioral health professional, to*

1 conduct the evaluation unless the parties stipulate ~~otherwise.~~  
2 *pursuant to subparagraph (A).*

3 (C) The court shall set a hearing to review the evaluation within  
4 14 days.

5 (D) The evaluation *and all reports, documents, and filings*  
6 *submitted to the court shall be ~~confidential pursuant to Section~~*  
7 *5200. confidential.*

8 (d) (1) At the *clinical* evaluation review hearing, the court shall  
9 review the evaluation and any other evidence from ~~all interested~~  
10 ~~individuals, including, but not limited to,~~ evidence from the  
11 petitioner, the county behavioral health agency, the respondent,  
12 and the CARE supporter. *The petitioner and respondent may*  
13 *present evidence and call witnesses, including the person who*  
14 *conducted the evaluation. Only relevant and admissible evidence*  
15 *that fully complies with the rules of evidence may be considered*  
16 *by the court.*

17 (2) The hearing may be continued a maximum of 14 days upon  
18 stipulation of the respondent and the county behavioral health  
19 ~~agency.~~ *agency, unless there is good cause for a longer extension.*

20 (3) (A) If the court finds that the evaluation and other *relevant*  
21 *and admissible* evidence ~~demonstrate~~ *prove* by clear and  
22 convincing evidence that the respondent meets the CARE criteria,  
23 the court shall order the county behavioral health agency, the  
24 respondent, and the respondent's counsel and CARE supporter to  
25 jointly develop a CARE plan.

26 (B) (i) *The CARE plan shall be developed by the respondent,*  
27 *their CARE supporter and counsel, and the county behavioral*  
28 *health agency.*

29 (ii) *If the proposed CARE plan includes services and supports,*  
30 *such as housing, provided directly or indirectly through another*  
31 *local governmental entity, that local entity may agree to provide*  
32 *the service or support or the court may consider a motion by either*  
33 *of the parties to add the local entity as a party to the CARE*  
34 *proceeding.*

35 (iii) *If the respondent is an American Indian or Alaska Native*  
36 *individual, as defined in Sections 1603(13), 1603(28), or 1679(a)*  
37 *of Title 25 of the United States Code, has been determined eligible*  
38 *as an Indian under Section 136.12 of Title 42 of the Code of*  
39 *Federal Regulations, or is otherwise receiving services from an*  
40 *Indian health care provider or tribal court, the county behavioral*

1 *health agency shall use best efforts to meaningfully consult with*  
 2 *and incorporate the Indian health care provider or tribal court*  
 3 *available to the respondent to develop the CARE plan.*

4 ~~(B)~~

5 (C) The respondent and the county behavioral health agency  
 6 may request appellate writ review of the order to develop a CARE  
 7 plan.

8 ~~(C)–A~~

9 (D) ~~The date for the hearing to approve~~ *review the proposed*  
 10 *CARE plan shall be set not more than 14 days from the date of the*  
 11 *order to develop a CARE plan.*

12 (4) If the court finds that the evidence does not, by clear and  
 13 convincing evidence, support that the respondent meets the CARE  
 14 criteria, the court shall dismiss the petition without prejudice.

15 ~~(e) (1) The plan approval and implementation hearing to~~  
 16 ~~approve the hearing to review the proposed~~ *CARE plan shall occur*  
 17 *within 14 days after the date of the order to develop a CARE plan.*  
 18 *plan, unless there is good cause for an extension.*

19 ~~(2) The CARE plan may be presented by both or either of the~~  
 20 ~~parties. After presentation, the court may do any of the following:~~

21 ~~(A) Approve the plan as presented and make any orders~~  
 22 ~~necessary for the implementation of the plan.~~

23 ~~(B) Order the plan modified to better meet the needs of the~~  
 24 ~~parties, approve the plan as modified, within the scope of the~~  
 25 ~~county behavioral health agency's services, and make any orders~~  
 26 ~~necessary for the implementation of the plan.~~

27 ~~(C) Reject the plan and order the parties to continue to work on~~  
 28 ~~the plan. The court shall set a subsequent hearing for no more than~~  
 29 ~~14 days after rejecting the proposed plan.~~

30 ~~(3) (A) If the court rejects the plan or if there is no CARE plan~~  
 31 ~~because the parties have not had sufficient time to complete it, the~~  
 32 ~~court may grant a continuance for no more than 14 days.~~

33 ~~(B) At the subsequent CARE plan approval and implementation~~  
 34 ~~hearing, the court shall review the CARE plan, at which time the~~  
 35 ~~court may do either of the following:~~

36 ~~(i) Approve the plan as presented and make any orders necessary~~  
 37 ~~to implement the plan.~~

38 ~~(ii) Order the plan modified, within the scope of the county~~  
 39 ~~behavioral health agency's services, to better meet the needs of~~

1 ~~the parties, approve the plan as modified, and make any orders~~  
2 ~~necessary to implement the plan.~~

3 ~~(4) Court approval of the CARE plan begins the one-year CARE~~  
4 ~~program timeline.~~

5 *(2) The county behavioral health agency or the respondent, or*  
6 *both, may present a proposed CARE plan.*

7 *(3) (A) After reviewing the proposed CARE plan and hearing*  
8 *from the parties, the court may issue any orders necessary to*  
9 *support the respondent in accessing appropriate services and*  
10 *supports, including prioritization for those services and supports,*  
11 *as allowable by available funding and applicable laws pursuant*  
12 *to Section 5982.*

13 *(B) To the extent that the court orders medically necessary*  
14 *stabilization medications, including antipsychotic medications,*  
15 *the medication shall not be forcibly administered, absent a separate*  
16 *order by the court pursuant to Sections 5332 to 5336, inclusive.*

17 *(4) If the court determines that additional information is needed,*  
18 *including from a licensed behavioral health professional, the court*  
19 *shall order a supplemental report to be filed and the court may*  
20 *grant a continuance for no more than 14 days, unless there is good*  
21 *cause for an extension.*

22 *(5) If there is no CARE plan because the parties have not had*  
23 *sufficient time to complete it, the court may grant a continuance*  
24 *for no more than 14 days, unless there is good cause for an*  
25 *extension.*

26 *(6) The court issuing an order pursuant to this section begins*  
27 *the up to one-year CARE program timeline.*

28 *(f) (1) The court shall schedule a status conference for 60 days*  
29 *after the approval of the CARE plan to review the progress of the*  
30 *CARE plan's implementation.*

31 *(2) At least seven days prior to the status hearing, the county*  
32 *behavioral health agency shall submit to the court and to the*  
33 *respondent, respondent's counsel, and respondent's CARE*  
34 *supporter, a report on the progress the respondent has made on*  
35 *the CARE plan, what services and supports in the CARE plan were*  
36 *provided, what services and supports were not provided, any issues*  
37 *the respondent had in adhering to the plan, and recommendations*  
38 *for changes to the services and supports to make the respondent*  
39 *more successful on the CARE plan.*

1 (g) (1) The 60-day status conference shall be followed by  
2 regular status conferences set by the court, at least every ~~180~~ 90  
3 days. *At least seven days prior to every status hearing, the county*  
4 *behavioral health agency shall provide a report with the*  
5 *information in paragraph (2) of subdivision (f). Intermittent lapses*  
6 *or setbacks experienced by the respondent shall not be reason*  
7 *alone for precluding the respondent from receiving any treatment*  
8 *services or for making the respondent ineligible for any housing*  
9 *options that have been ordered pursuant to the CARE plan.*

10 (2) Intermittent lapses or setbacks experienced by the respondent  
11 shall be reviewed by the court. *Either the county behavioral health*  
12 *agency or the respondent may request a hearing at an earlier time.*

13 (h) (1) *If a county behavioral health agency or the respondent*  
14 *requests a hearing, the hearing shall be scheduled not more than*  
15 *14 days from the date of the request.*

16 (2) *At least seven days prior to every status hearing, the county*  
17 *behavioral health agency shall provide a report with the*  
18 *information in paragraph (2) of subdivision (f).*

19 ~~(h)~~

20 (i) (1) In the 11th month of the program timeline, the court  
21 shall hold a one-year status hearing. At that hearing, the court shall  
22 determine whether to graduate the respondent from the program  
23 with a graduation plan or reappoint the respondent to the program  
24 for another term, not to exceed one year.

25 (2) The one-year status hearing shall be an evidentiary hearing.  
26 ~~All parties shall be permitted to speak, present evidence, and the~~  
27 ~~court shall hear recommendations from the county behavioral~~  
28 ~~health agency. At least seven days prior to the one-year status~~  
29 ~~hearing, the county behavioral health agency shall submit to the~~  
30 ~~court and to the respondent, respondent's counsel, and~~  
31 ~~respondent's CARE supporter, a report on the progress the~~  
32 ~~respondent has made on the CARE plan, what services and~~  
33 ~~supports in the CARE plan were provided, what services and~~  
34 ~~supports were not provided, any issues the respondent had in~~  
35 ~~adhering to the plan, and any recommendations for completion~~  
36 ~~and graduation or continuation in CARE court.~~

37 (3) If the respondent has successfully completed participation  
38 in the one-year CARE program, the respondent shall not be  
39 reappointed to the program.

1 (4) At the one-year status hearing, the respondent may request  
2 graduation or reappointment to the CARE program. If the  
3 respondent elects to accept voluntary reappointment to the program,  
4 the respondent may request any amount of time, up to and including  
5 one additional year, to be reappointed to the CARE program. *A*  
6 *respondent may only be reappointed to the CARE program once,*  
7 *for up to one additional year.*

8 ~~(5) If the respondent requests to be graduated from, or times~~  
9 ~~out of, the program, the court shall officially graduate the~~  
10 ~~respondent and terminate its jurisdiction with a graduation plan.~~

11 (5) (A) *The respondent may be involuntarily reappointed to the*  
12 *program only if all of the following conditions apply:*

13 (i) *The respondent did not successfully complete the program.*

14 (ii) *All services and supports required by the CARE plan were*  
15 *provided to the respondent.*

16 (iii) *The court finds, by clear and convincing evidence, that the*  
17 *respondent currently meets the requirements in Section 5972.*

18 (B) *If the courts finds that (i) the respondent has not successfully*  
19 *completed the program, (ii) the respondent would benefit from*  
20 *continuation of the program, and (iii) the court cannot find, by*  
21 *clear and convincing evidence, that the respondent currently meets*  
22 *the requirements in Section 5972, but (iv) the respondent*  
23 *voluntarily requests to continue the program, the court may require*  
24 *that the county continue to provide the services and supports*  
25 *required in the CARE plan for another year.*

26 (6) Upon completion, for a respondent who was transferred  
27 from another court, the referring court shall be given notice of  
28 completion and the underlying matter shall be terminated.

29 ~~(i)~~

30 (j) The hearings described in this section shall occur in-person  
31 unless the court, in its discretion, determines that a party may  
32 appear remotely through the use of remote technology.

33 ~~(j)~~

34 (k) Consistent with its constitutional rulemaking authority, the  
35 Judicial Council shall adopt rules to implement the policies and  
36 provisions in this section to promote statewide consistency,  
37 including, but not limited to, what is included in the petition form  
38 packet, the clerk's review of the petition, and the process by which  
39 counsel and CARE supporter will be appointed.

1 5978. (a) A court may refer an individual from assisted  
 2 outpatient treatment and conservatorship proceedings to CARE  
 3 proceedings. *If the individual is being referred from assisted*  
 4 *outpatient treatment, the county behavioral health director or their*  
 5 *designee may be the petitioner. If the individual is being referred*  
 6 *from conservatorship proceedings, the conservator may be the*  
 7 *petitioner.*

8 (b) A court may refer an individual from misdemeanor  
 9 proceedings pursuant to Section 1370.01 of the Penal Code. ~~Code,~~  
 10 *in which case the prosecuting attorney may be the petitioner.*

11  
 12 CHAPTER 3. ACCOUNTABILITY  
 13

14 5979. (a) If, at any time during the proceedings, the court  
 15 determines by a ~~preponderance of~~ *clear and convincing* evidence  
 16 that the respondent is not participating in CARE proceedings, after  
 17 the respondent receives notice, or is failing to comply with their  
 18 CARE plan, the court may terminate the respondent's participation  
 19 in the CARE program. The court may utilize existing legal  
 20 authority pursuant to Article 4 2 (commencing with Section 5200)  
 21 of Chapter 2 of Part 1, to ensure the respondent's safety. The  
 22 subsequent proceedings may use the CARE proceedings as a  
 23 factual presumption that no suitable community alternatives are  
 24 available to treat the individual.

25 (b) If, at any time during the proceedings, the court finds that  
 26 the county *or other local government entity* is not complying with  
 27 court orders, the court may fine the county *or other local*  
 28 *government entity* up to one thousand dollars (\$1,000) per day for  
 29 noncompliance. If a county is found to be persistently  
 30 noncompliant, the court may appoint a receiver to secure  
 31 court-ordered care for the respondent at the county's cost.

32 (c) Either the respondent or the county behavioral health agency  
 33 may appeal an adverse court determination to the appellate division  
 34 of the superior court.

35  
 36 CHAPTER 4. THE CARE SUPPORTER  
 37

38 5980. (a) Subject to appropriation, the California Department  
 39 of Aging shall administer the CARE Supporter program, which  
 40 shall make available a trained *CARE* supporter to the ~~respondent.~~

1 *respondent, who may accept, decline, or choose their own CARE*  
2 *supporter. The department shall train ~~the supporter CARE~~*  
3 *supporters on supported decisionmaking with individuals who*  
4 *have behavioral health conditions and on the use of psychiatric*  
5 *advance directives, with support and input from peers, family*  
6 *members, disability groups, providers, the County Behavioral*  
7 *Health Directors Association, and other relevant stakeholders. The*  
8 *department may enter into a technical assistance and training*  
9 *agreement to provide ~~trainings either directly to training directly~~*  
10 *to either CARE supporters or to the contracted entities who will*  
11 *be responsible for hiring and matching CARE supporters to*  
12 *respondents. The CARE Supporter program contracts shall include*  
13 *labor ~~standards. standards under state and federal law.~~*

14 (b) The CARE Supporter program shall be designed to do all  
15 of the following:

16 (1) Offer the respondent a flexible and culturally responsive  
17 way to maintain autonomy and decisionmaking authority over  
18 their own life by developing and maintaining voluntary supports  
19 to assist them in understanding, making, communicating, and  
20 implementing their own informed choices.

21 (2) Strengthen the respondent's capacity *to engage in and*  
22 *exercise autonomous decisionmaking* and prevent or remove the  
23 need to use more restrictive protective mechanisms, such as  
24 conservatorship.

25 (3) Assist the respondent with understanding, making, and  
26 communicating decisions and expressing preferences throughout  
27 the CARE court process.

28 (c) If the respondent chooses to have a *CARE supporter who*  
29 *was not trained pursuant to this section, outside of the CARE*  
30 *Supporter program, that person may serve as a volunteer CARE*  
31 *supporter without compensation. Optional training shall be made*  
32 *available and strongly encouraged for volunteer CARE supporters.*  
33

34 5981. (a) Notwithstanding any other provision of this part, the  
35 respondent may have their *CARE supporter present, if available,*  
36 *in any meeting, judicial proceeding, status hearing, or*  
37 *communication related to any of the following:*

38 (1) An evaluation.

39 (2) Creation of a CARE plan.

40 (3) Establishing a psychiatric advance directive.

- 1 (4) Development of a graduation plan.
- 2 (b) A CARE supporter shall do all the following, to the best of
- 3 their ability and to the extent reasonably possible: *following:*
- 4 (1) Support the will and preferences of the ~~respondent.~~
- 5 *respondent to the best of their ability and to the extent reasonably*
- 6 *possible.*
- 7 (2) Respect the values, beliefs, and preferences of the
- 8 respondent.
- 9 (3) Act honestly, diligently, and in good faith.
- 10 (4) Avoid, to the greatest extent possible, and disclose,
- 11 minimize, and manage, conflicts of interest.
- 12 (c) Unless explicitly ~~authorized,~~ *authorized by the respondent*
- 13 *with capacity to make that authorization,* a CARE supporter shall
- 14 not do ~~any~~ *either* of the following:
- 15 (1) Make decisions for, or on behalf of, the respondent, except
- 16 when necessary to prevent imminent bodily harm or injury.
- 17 (2) Sign documents on behalf of the respondent.
- 18 ~~(3) Substitute their own judgment for the decision or preference~~
- 19 ~~of the respondent.~~
- 20 (d) In addition to the obligations in this section, a CARE
- 21 supporter shall be bound by all existing obligations and prohibitions
- 22 otherwise applicable by law that protect people with disabilities
- 23 and the elderly from fraud, abuse, neglect, coercion, or
- 24 mistreatment. This section does not limit a CARE supporter’s civil
- 25 or criminal liability for prohibited conduct against the respondent,
- 26 including liability for fraud, abuse, neglect, coercion, or
- 27 mistreatment, including liability under the Elder Abuse and
- 28 Dependent Adult Civil Protection Act (Chapter 11 (commencing
- 29 with Section 15600) of Part 3 of Division 9), including, but not
- 30 limited to, Sections 15656 and 15657.

CHAPTER 5. CARE PLAN

- 34 ~~5982. The CARE plan shall be created by the respondent, their~~
- 35 ~~supporter and counsel, and the county behavioral health agency.~~
- 36 ~~The plan shall include all of the following components:~~
- 37 ~~(a) (1) Behavioral health treatment, which includes medically~~
- 38 ~~necessary mental health or substance use disorder treatment, or~~
- 39 ~~both.~~

1     ~~(2) If the respondent is enrolled in the Medi-Cal program, the~~  
2 ~~county shall provide all medically necessary specialty mental health~~  
3 ~~and substance use disorder treatment services, as those services~~  
4 ~~are defined in the Medi-Cal program and consistent with their~~  
5 ~~responsibilities thereunder, to a respondent when included in their~~  
6 ~~court ordered CARE plan. Specialty mental health services and~~  
7 ~~substance use disorder treatment services may be included in the~~  
8 ~~CARE plan if they are determined to be medically necessary by~~  
9 ~~the clinical evaluation. If the respondent is an enrollee in a health~~  
10 ~~care service plan, other than a Medi-Cal managed care plan, the~~  
11 ~~services shall be provided and reimbursed pursuant to Section~~  
12 ~~1374.723 of the Health and Safety Code.~~

13     ~~(3) Counties are encouraged to employ medically necessary,~~  
14 ~~evidence-based practices and promising practices supported with~~  
15 ~~community-defined evidence, which may include assertive~~  
16 ~~community treatment, peer support services, and psychoeducation.~~

17     ~~(b) (1) As part of the provision of behavioral health care, the~~  
18 ~~care plan may include medically necessary stabilization~~  
19 ~~medications, including antipsychotic medications. If medically~~  
20 ~~necessary, medications may be provided as long-acting injections.~~

21     ~~(2) Court ordered stabilization medications shall not be forcibly~~  
22 ~~administered, absent a separate order by the court pursuant to~~  
23 ~~Sections 5332 to 5336, inclusive.~~

24     ~~(3) Medically necessary stabilization medications may be~~  
25 ~~prescribed by the treating licensed behavioral health care provider~~  
26 ~~and medication support services shall be offered. The respondent,~~  
27 ~~in the development and on-going maintenance of the plan, shall~~  
28 ~~work with their behavioral health care provider and their supporter~~  
29 ~~to address medication concerns and make changes to the treatment~~  
30 ~~plan.~~

31     ~~(e) A housing plan that describes the housing needs of the~~  
32 ~~respondent and the housing resources that will be considered in~~  
33 ~~support of an appropriate housing placement. The respondent shall~~  
34 ~~have diverse housing options, including, but not limited to, housing~~  
35 ~~in clinically enhanced interim or bridge housing, licensed adult~~  
36 ~~and senior care settings, and supportive housing. Counties may~~  
37 ~~offer appropriate housing placements in the region as early as~~  
38 ~~feasible in the engagement process. This section does not allow~~  
39 ~~the court to order housing or to require the county to provide~~  
40 ~~housing.~~

1 5982. (a) *The CARE plan may only include the following:*

2 (1) *Behavioral health services funded through the 1991 and*  
3 *2011 Realignment, Medi-Cal behavioral health, non-Medi-Cal*  
4 *behavioral health, commercial plans, and services supported by*  
5 *the Mental Health Services Act pursuant to Part 3 (commencing*  
6 *with Section 5800).*

7 (2) *Housing resources funded through No Place Like Home*  
8 *Program; Project Homekey; Homeless Housing, Assistance, and*  
9 *Prevention; Encampment Resolution Funding program; Family*  
10 *Homelessness Challenge Grants and Technical Assistance*  
11 *Program; Project Roomkey Community Care Expansion Program;*  
12 *CalWORKs Housing Support Program; CalWORKs Homeless*  
13 *Assistance Program; the Housing and Disability Advocacy*  
14 *Program; the Home Safe Program; the Bringing Families Home*  
15 *Program; the Transitional Housing Program; the Transitional*  
16 *Housing Placement Plus Foster Care program; the Transitional*  
17 *Housing Program Plus; Veterans Support to Self-Reliance; the*  
18 *Veterans Affairs Supportive Housing voucher program; the federal*  
19 *Department of Veterans Affairs Supportive Services for Veteran*  
20 *Families program; CalAIM housing-related community supports;*  
21 *Housing and Homelessness Incentive Program; HUD Continuum*  
22 *of Care program; Emergency Solutions Grant Program; Family*  
23 *Unification Program vouchers; emergency housing vouchers;*  
24 *Federal Housing Choice vouchers; the HOME Investment*  
25 *Partnership Program; community development block grants; and*  
26 *other state and federal housing resources.*

27 (3) *Social services funded through Supplemental Security*  
28 *Income/State Supplementary Payment (SSI/SSP), Cash Assistance*  
29 *Program for Immigrants (CAPI), CalWORKs, and CalFresh.*

30 (4) *Services provided pursuant to Part 5 (commencing with*  
31 *Section 17000) of Division 9.*

32 (b) *Individuals who are CARE program participants shall be*  
33 *prioritized for any appropriate bridge housing funded by the*  
34 *Behavioral Health Bridge Housing program.*

35 (c) *All CARE plan services and supports ordered by the court*  
36 *are subject to all applicable statutes and regulations governing*  
37 *eligibility and available funding, including, but not limited to, the*  
38 *following:*

39 (1) *Medically necessary behavioral health treatment pursuant*  
40 *to Sections 14712 and 14124.20 of this code or Section 11758.20*

1 *of the Health and Safety Code, subject to county behavioral health*  
2 *plan contracts and notices.*

3 (2) *Housing resources funded through the programs listed in*  
4 *paragraph (2) of subdivision (a).*

5 (3) *SSI/SSP, CAPI, CalWORKs, and CalFresh.*

6 (d) *This section does not prevent a county from recommending*  
7 *services that are a county responsibility not listed in subdivision*  
8 *(a) or (c). Any such recommendation is not required by this section*  
9 *and shall be made at the request of the county for the purposes of*  
10 *Section 6 of Article XIII B, and Sections 6 and 36 of Article XIII*  
11 *of the California Constitution.*

12

13 CHAPTER 6. TECHNICAL ASSISTANCE AND ADMINISTRATION

14

15 5983. (a) Subject to appropriation, the State Department of  
16 Health Care Services shall provide technical assistance to county  
17 behavioral health agencies to support the implementation of this  
18 part, including ~~trainings~~ *training* regarding the CARE ~~model and~~  
19 ~~statute~~ *statute, CARE plan services and supports*, and data  
20 collection.

21 ~~(b) Subject to appropriation, the State Department of Health~~  
22 ~~Care Services shall administer the Behavioral Health Bridge~~  
23 ~~Housing program to provide funding for clinically enhanced bridge~~  
24 ~~housing settings to serve individuals who are experiencing~~  
25 ~~homelessness and have behavioral health conditions. Individuals~~  
26 ~~who are CARE program participants shall be prioritized for any~~  
27 ~~appropriate bridge housing funded by the Behavioral Health Bridge~~  
28 ~~Housing program.~~

29 (e)

30 (b) Subject to appropriation, the ~~Judicial Council~~ *Council*, in  
31 *consultation with the State Department of Health Care Services,*  
32 *other relevant state entities, and the County Behavioral Health*  
33 *Directors Association, shall provide training and technical*  
34 *assistance to judges to support the implementation of this part,*  
35 *including ~~trainings~~ training regarding the CARE ~~model and~~*  
36 *statutes, CARE plan services and supports, working with the CARE*  
37 *supporter, best practices, and evidence-based models of care for*  
38 *people with severe behavioral health conditions.*

39 (c) *Subject to appropriation, the State Department of Health*  
40 *Care Services, in consultation with other relevant state departments*

1 *and the California Interagency Council on Homelessness, shall*  
2 *provide training to counsel regarding the CARE statute and CARE*  
3 *plan services and supports.*

4 5984. (a) For purposes of implementing this part, the California  
5 Health and Human Services Agency, the State Department of  
6 Health Care Services, and the California Department of Aging  
7 may enter into exclusive or nonexclusive contracts, or amend  
8 existing contracts, on a bid or negotiated basis. Contracts entered  
9 into or amended pursuant to this part shall be exempt from Chapter  
10 6 (commencing with Section 14825) of Part 5.5 of Division 3 of  
11 Title 2 of the Government Code, Section 19130 of the Government  
12 Code, Part 2 (commencing with Section 10100) of Division 2 of  
13 the Public Contract Code, and the State Administrative Manual,  
14 and shall be exempt from the review or approval of any division  
15 of the Department of General Services.

16 (b) Notwithstanding Chapter 3.5 (commencing with Section  
17 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
18 the California Health and Human Services Agency, the State  
19 Department of Health Care Services, and the California Department  
20 of Aging may implement, interpret, or make specific this part, in  
21 whole or in part, by means of plan letters, information notices,  
22 provider bulletins, or other similar instructions, without taking any  
23 further regulatory action.

24 5985. (a) *The State Department of Health Care Services shall*  
25 *develop, in consultation with county behavioral health agencies,*  
26 *CARE supporters, and other appropriate stakeholders, an annual*  
27 *CARE Act report. The department shall post the annual report on*  
28 *its internet website.*

29 (b) *County behavioral health agencies and any other state or*  
30 *local governmental entity, as determined by the department, shall*  
31 *provide data related to the CARE Act participants, services, and*  
32 *supports to the department. The department shall determine the*  
33 *data measures and specifications, and notwithstanding Chapter*  
34 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*  
35 *Title 2 of the Government Code, the department may implement,*  
36 *interpret, or make specific this part, in whole or in part, by means*  
37 *of plan letters, information notices, provider bulletins, or other*  
38 *similar instructions, without taking any further regulatory action.*

39 (c) *Each county behavioral health department and any other*  
40 *local governmental entity, as determined by the department, shall*

1 *provide the required data to the department, in a format and*  
2 *frequency as directed by the department.*

3 *(d) The department shall provide information on the populations*  
4 *served and demographic data, stratified by age, sex, race, ethnicity,*  
5 *languages spoken, and disability, to the extent statistically relevant*  
6 *data is available.*

7 *(e) The report shall include, at a minimum, information on the*  
8 *effectiveness of the CARE Act model in improving outcomes and*  
9 *reducing homelessness, criminal justice involvement,*  
10 *conservatorships, and hospitalization of participants.*

11 *(f) The outcomes shall be presented to relevant state oversight*  
12 *bodies, including, but not limited to, the California Interagency*  
13 *Council on Homelessness.*

14 5986. *(a) The State Department of Health Care Services shall*  
15 *develop, in consultation with county behavioral health agencies,*  
16 *county CARE courts, and other appropriate stakeholders, an*  
17 *independent evaluation of the effectiveness of the CARE Act.*

18 *(b) The department shall provide a preliminary report to the*  
19 *Legislature three years after the implementation date of the CARE*  
20 *Act and a final report to the Legislature five years after the*  
21 *implementation date of CARE Act. The department shall post the*  
22 *preliminary and final reports on its internet website.*

23 *(c) Each county behavioral health department, each county*  
24 *CARE court, and any other state or local governmental entity, as*  
25 *determined by the department, shall provide the required data to*  
26 *the department, in a format and frequency as directed by the*  
27 *department.*

28 *(d) A report to be submitted pursuant to this section shall be*  
29 *submitted in compliance with Section 9795 of the Government*  
30 *Code.*

31 *SEC. 8. The Legislature finds and declares that Section 7 of*  
32 *this act, which adds Section 5973.5 to the Welfare and Institutions*  
33 *Code, imposes a limitation on the public's right of access to the*  
34 *meetings of public bodies or the writings of public officials and*  
35 *agencies within the meaning of Section 3 of Article I of the*  
36 *California Constitution. Pursuant to that constitutional provision,*  
37 *the Legislature makes the following findings to demonstrate the*  
38 *interest protected by this limitation and the need for protecting*  
39 *that interest:*

1 *This act protects the sensitive medical information of the*  
2 *respondent in a CARE court proceeding, including medical and*  
3 *psychological records.*

4 ~~SEC. 5.~~

5 *SEC. 9.* No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution for certain  
7 costs that may be incurred by a local agency or school district  
8 because, in that regard, this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty for a crime  
10 or infraction, within the meaning of Section 17556 of the  
11 Government Code, or changes the definition of a crime within the  
12 meaning of Section 6 of Article XIII B of the California  
13 Constitution.

14 However, if the Commission on State Mandates determines that  
15 this act contains other costs mandated by the state, reimbursement  
16 to local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.